

EXHIBIT ‘S’

Expert Report

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January 2010

United States District Court for the Eastern District of Michigan

In Re OnStar Contract Litigation
MDL No. 07-1867

1. Qualifications

I received a Ph.D. in Marketing in 1976 from the Ohio State University with specialization in advertising and consumer behavior. I also hold an M.B.A. degree granted by Michigan State University (1971) and a B.B.A. granted by the University of Michigan (1970). I am the former Dean of the College of Business (2000-2008) and currently Professor of Marketing at Montana State University. Prior to holding these positions, I was Professor of Marketing in the Eccles School of Business at the University of Utah where I was Head of the Marketing Department for 12 years and Associate Dean for Research. I have taught courses and conducted research in advertising, marketing, and consumer behavior for the past 32 years. I have been a visiting research scholar and visiting professor at European universities. In 2005, I was named Montana Educator of the Year by the Montana Governor's office. I have delivered speeches and lectures on advertising and consumer behavior across the United States and 8 foreign countries. My research has been published in leading journals in marketing, advertising, and consumer behavior including the *Journal of Advertising*, the *Journal of Consumer Research* and the *International Journal of Advertising*. I have published twelve books on the topics of marketing and advertising. My books have been used in approximately 500 colleges and universities in the United States, Canada, Australia, and Europe over the last 15 years. I am an active member in various professional associations, including the American Academy of Advertising and the American Marketing Association. I have served on the National Board of Directors of the American Advertising Museum. I am a reviewer for several journals and professional conferences in my field including the *Journal of Advertising*, *Journal of Consumer Research*, and the *Academy of Advertising*. I have been a judge for the American Marketing Association Doctoral Dissertation Competition three times. Attached to this expert report is my curriculum vita (Exhibit A) and a list of cases in which I have testified as an expert in the last four years is attached as Exhibit B which includes my hourly rate for expert analysis and services for this case. Exhibit C is a list of materials I have reviewed as a basis for my opinion.

2. Scope of this Report

2.1: Plaintiffs' contention. I have been asked to offer my expert analysis and opinions with respect to the issues of consumer information processing and consumer decision making. Plaintiffs in this case seek to certify a class of people who purchased or leased (from this point forward referred to as either "purchased" or "bought") certain motor vehicles with OnStar analog-only or analog-digital-ready equipment. It is not clear whether people who did not retain ownership of said vehicles after the FCC ruling sunset date of January 2008 are in fact class members. I will assume for purposes of this analysis that the requested class consists of individuals in the United States who, as of December 31, 2007, either owned or leased (from this point forward referred to as "buyers" "purchasers" or "owners" in this report) GM, VW, Honda or Subaru (OEM manufacturers) vehicles originally sold or leased on or after August 8, 2002 and equipped with analog-only or analog/digital-ready OnStar equipment which had not been upgraded or who paid for an upgrade on or before December 31, 2007.

Plaintiffs essentially contend that the defendants should have disclosed to buyers at the time of purchase

- a) the type of telematics equipment in the vehicles they were buying,
- b) that wireless carriers might cease transmission of analog signals and that therefore the equipment in their vehicle would fail after December 31, 2007,
- c) that the manufacturer would not fix, repair or upgrade analog-only equipment,
- d) that they would have to pay to have upgraded analog/digital-ready equipment,
- e) and that the disclosure of information in a) through d) above would have influenced plaintiffs' decisions to purchase a vehicle and/or the price to pay for a vehicle

2.2. Summary of Opinions. My expert opinions relative to plaintiffs' contentions are stated with a reasonable degree of certainty and based on my training, experience and the fundamental principles in marketing, advertising and consumer behavior. My opinions are that members of the alleged class:

- a) would not have received disclosure information from the same sources,
- b) would not have received disclosure information in the same manner,
- c) would not have processed, interpreted, understood, or accepted disclosure information in the same manner,
- d) would not have responded to disclosure information in the same manner if and when it was received,
- e) would have encountered and processed information about products the vehicles they considered purchasing in an individual and varied manner,
- f) encountered and processed information which changed in content over time with respect to the vehicles they considered purchasing or owned
- g) engaged in decision making about what vehicle to buy and the manner in which they went about the buying decision making process in an individualistic and varied manner,
- h) as reflected in the record, displayed individualistic and varied reception of information about the vehicles they considered purchasing particularly with respect to interactions with salespeople at independent dealerships,

- i) as reflected in the record, displayed individualistic and varied decision making with respect to the purchase of their vehicles,
- j) as reflected in the record displayed individualistic and varied use (or non-use) of the telematics equipment in their vehicles
- k) would not have been affected in a similar manner with respect to the decision to purchase or lease a vehicle or the price to pay for that vehicle. In some cases, it would not have affected these decisions at all. This conclusion is based on both the nature of consumer information processing and decision making and also on the actual records of class representatives.

The overall conclusion from these opinions is that determining whether and to what degree any given class member would have been influenced by the disclosures or omissions alleged by the plaintiffs can only be accomplished on an individual by individual basis. This is due to the individualistic and varied nature of consumer information processing and consumer decision making, the existence of which is supported by the discussions to follow. It should be noted that my research regarding the issues in this case is continuous and on-going and may affect the nature and extent of my opinions.

3. Information Processing is Unique to Each Consumer

Consumers encounter information about products and services from varying sources and then process that information about products and services in an individualistic and varied manner. There is no such process as “group” (cyborg-like) information processing among consumers. Each consumer enters the market place as an individual with individual needs, values and intentions with respect to each product or service purchase decision. The unique orientations that individuals bring to each purchase situation manifests themselves in the manner in which consumers encounter and then process information and then subsequently make a purchase decision.

Figure 1 provides a graphic depiction from communications theory of the individualistic manner in which consumers encounter and then interpret information. A **source** of information, in this case independent auto retail dealers, the OEM manufacturers of vehicles, or OnStar Corporation will **encode (prepare)** information they intend to provide to consumers. That information will highlight product characteristics, price, retail availability and other information each different source intends to communicate to the consumer. Next, the information is transmitted through **media** to reach consumers. A wide range of print and electronic media are available to transmit messages. These include traditional media like television, newspapers, magazines, brochures, and radio and newer digital media like Web sites, email communications or pod-casting. Sales people also represent a “medium” through which

encoded information can be delivered to consumers in person at a retail store. In this case, buyers of vehicles received information from salespeople at independent dealerships, media advertising, brochures, subscription agreements, owners' manuals, web sites and email communications.

Next, the information is then **decoded (interpreted)** by each consumer if he/she encounters the information. Each consumer brings to the receipt of information a unique set of individual circumstances, lifestyle characteristics and values. It is fundamentally recognized by marketing, advertising and consumer behavior researchers and experts that each consumer will interpret (decode) messages from a source within the realm of his or her unique circumstances and value system.¹ The relationship between consumer decision making and consumer information processing is highlighted in the next section on the individual nature of consumer decision making (Figure 2). Once a consumer receives and interprets information, he/she will use that information in a manner that suits the particular circumstances facing that consumer. Finally, it should be noted that there is **noise (interference)** throughout the communication process. Noise is any distraction during or disruption in the communication process.² Examples of noise are abundant: consumers may be listening to a radio while driving or working; a brochure may be received in the mail amongst bills and other advertising; television ads are ignored or skipped (TiVo) altogether, or one salesperson will provide particular information to one consumer while the next salesperson will have a different discussion with another consumer.

The essential conclusion with respect to the way consumers encounter and interpret information is that it is a process unique to each consumer.³ From the differences in sources of information from which consumers receive information through the media that reach them with the information to interpreting information within the realm of each consumer's unique existence and value system, consumer information processing is a decidedly individual process.

Of specific relevance to this case is the timing and manner in which individuals could have received reliable information regarding the nature and availability of analog wireless service for their OnStar equipped vehicles. The expert report of Kathleen Abernathy (FCC Commissioner at the time of the analog sunset rule decision making process) states that in her expert opinion, the decision to release cellular carriers from the requirement to provide analog services was not reliably conclusive over a long period of time leading up to the sunset date (Abernathy expert report, January 5, 2010, page 7).⁴ This means that, contrary to plaintiffs' contentions, defendants could not have conveyed to potential buyers a message of certainty about analog service availability. Given the fact that the transition was uncertain also calls into question whether a given consumer would have incorporated this information into his or her purchase or price decision making. In this report, the numerous variables I am describing reflect that those consumers who actually were interested in OnStar may or may not have acted upon this uncertain information.

4. Consumer Decision Making is Unique to Each Consumer

After consumers encounter and interpret information as described above and in Figure 1, they do not embark on decision making with respect to a product or service in the same manner. Consumers make decisions about what products and services to choose in a complex and dynamic way. When consumers embark on a decision to use a product or service, that decision is affected by potentially dozens of factors including but not limited to: age, marital status, income, social class, lifestyle, observation of others, culture, school, religion, friends, family, prior experiences, pleasure seeking, motivations, situational factors, values and attitudes, personality, media exposure and marketer controlled stimuli—product features, price, packaging, advertising, promotion, and salespeople (See Figure 2). The impact and nature of these factors will vary from individual to individual over time in that people face differing life circumstances and have different values, attitudes and motivations. Further, for any one individual, the impact of each factor will vary over time as an individual encounters new and different information and accumulates life experiences. The result is that each consumer approaches a product purchase decision as an individual with a unique profile of characteristics, needs, and motivations.

4.1. “High Involvement” Products: The Case of Automobiles. The individuality and variability of consumer decision making is particularly pronounced with respect to what are referred to as “high involvement” products. High involvement products are higher cost, more complex, multi-feature products—examples include high definition televisions, computers, and automobiles. Because high involvement products have many and often complex features, this increases the amount and variability of information about these types of products. This, in turn, increases the number of factors influencing a consumer’s decision making and the complexity of their influence also increases. Consumers bring to a decision making situation an individual set of influences (per Figure 2) and then those influences interact with the many and complex features of a product.

An automobile is a high involvement product. The large number of features associated with an automobile result in more and varied information being available from more and varied sources. Greater and more varied information will, in turn, call into play a greater number of factors influencing decision making for each consumer—more features will relate to more aspects of a consumer’s life circumstances and values. As a greater number of factors come into play for each consumer, the variability between consumers is necessarily large. Variability will manifest itself across all aspects of decision making: choosing a brand of vehicle, choosing a model, deciding on features and options, deciding/negotiating payment options, etc..

Another important aspect of variability to be highlighted in the automobile decision process is the role of the salesperson. First, in the automobile retail setting, customers interact with salespeople on an individual basis. Consumers rely on a salesperson as a source of direct information as indicated in Figure 1. Second, a key feature of the personal selling effort is the salesperson’s ability to tailor and customize information for each consumer’s interests and needs.⁵ A salesperson will assess the unique factors influencing each consumer as the discussion of vehicle features, options

and price proceeds and then offer information that is relevant to the decision making of that consumer. It is also important to note here that not only will the information provided vary from consumer to consumer *by* a particular salesperson, but the information will also vary *from* salesperson to salesperson. Experts express the variability of the salesperson interaction with customers in these ways:

“Different sales people can change the message so that no consistent communication is given to all customers.”⁶

“Even though the salesperson plans the presentation in advance, she or he must be able to adjust the message to meet the prospect’s informational needs.”⁷

4.2. The Relative Impact of Marketer Controlled Information. It should be specifically noted that marketer controlled stimuli represents only one of many factors within this extremely complex consumer decision making environment. Not only is it a single factor, but marketing is a weak factor relative to the other influences on people’s lives. Advertising and marketing for a product or service operate in what is called a “cluttered environment.” Various estimates suggest that the average consumer encounters hundreds, even thousands of advertising messages every day. Of these, it is further estimated that the average consumer only notices about 76 of these ads each day and forms a mental reaction to only about 12 of them (and almost one-third of these reactions are negative ones). This is because the human mind is capable of screening out unwanted and irrelevant information. If an individual does not own a cat, then ads and promotions for cat food are irrelevant and largely ignored. These processes of “selective exposure” and “selective perception” are the ways consumers deal with “information overload.” This explains why the vast majority of ad messages are simply ignored or forgotten by consumers shortly after they see them. Consumer behavior researchers have described the phenomenon this way: “Although the typical consumer is exposed to hundreds of ads daily, the vast majority of these messages receive low levels of attention and comprehension” (Peter and Olson, 2008, Chapter 17).⁸


5. Evidence Does Not Support the Proposition That There Is Uniform Information Processing and Behavior Within the Proposed Class

Plaintiff’s contentions that defendants’ disclosure regarding telematics equipment in vehicles would have affected buyers’ purchase decision or price paid for a vehicle in a uniform way cannot be supported. Information processing and decision making is unique to each consumer as described in Sections 3 and 4 above. The record itself from deposition testimony serves as confirmation of the individual nature of information processing and consumer decision making. Individual differences among named class representatives are evident both within and across OEM types as anticipated by the nature of consumer information processing and decision making as depicted in Figures 1 and 2 in this report.

I have examined deposition testimony in this case. In addition, I have conferred with Dr. Claude Martin whose expert report in this case provides a detailed summary of

each of the named class representatives. The evidence does not support uniformity with respect to information processing or consumer decision making. Rather, the evidence shows wide variation in information processing and consumer decision among the class representatives, as well as members of the proposed class. Examples of areas where meaningful variation is in evidence include but are not limited to:

- a) The length of time plaintiffs spent in the decision making process which varied from one day to several months.
- b) The number of dealerships visited by plaintiffs which varied from one to 3 or more.
- c) The degree of loyalty plaintiffs displayed to a particular brand of vehicle and/or a particular dealer selling that brand varied from complete loyalty to no loyalty at all.
- d) Variation with respect whether the purchaser was the principal driver of the vehicle versus a spouse or a child.
- e) Variation with respect to the number of individuals involved in the decision to purchase a vehicle.
- f) Variation with respect to the nature and duration of the encounter with a salesperson.
- g) Variation in the emphasis on the importance of OnStar to the purchase of the vehicle.
- h) Variation in the extent to which information related to analog service availability was attended to, acted upon or completely ignored.
- i) Age and experience of plaintiffs manifest themselves in differences with respect to seeking out information from various sources and the nature of information processing when it was encountered from those sources.
- j) Variation with respect to purchasing versus leasing and the anticipated length of use of the vehicle.
- k) Variation with respect to whether individuals subscribed at all, initially subscribed, or maintained a subscription and the level of subscription to OnStar.
- l) Variation with respect to whether individuals kept a vehicle beyond the analog service sunset date or sold a vehicle before the sunset date.


 Richard J. Semenik, Ph.D.

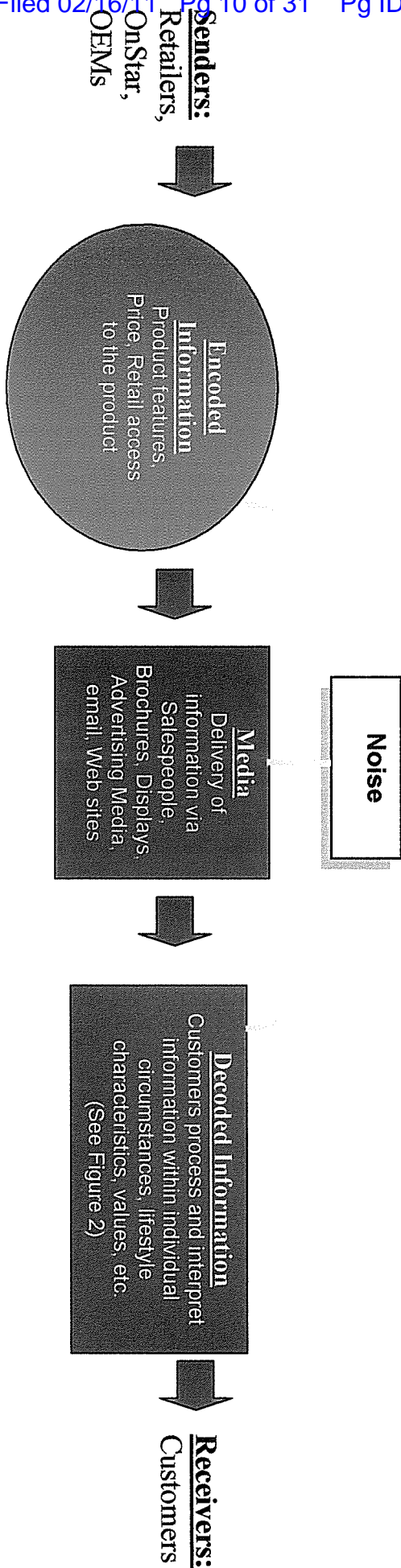


Figure 1: Model of Information Communications¹

¹ This model of Information Communication is based on historical models developed in the communications discipline. For examples see Wilbur Schramm, "How Communication Works, The Process and Effects of Mass Communication," editor, Wilbur Schramm (Urbana, Ill.: The University of Illinois Press, 1961) pp. 5-6; David K. Berlo, *The Process of Communication*, (New York: Holt, Rinehart and Winston, Inc., 1960); Claude F. Shannon and Warren Weaver, *The Mathematical Theory of Communication*, (Urbana, Ill.: The University of Illinois Press, 1964) p. 7. Contemporary marketing textbooks rely on these traditional communication models as the basis for explaining consumer information processing. As examples see Charles Lamb, Joseph Hair and Carl McDaniel, *Marketing*, 8th Ed., Chapter 14 (Cincinnati, OH: Thomson Learning, 2006); Roger Kerin, Steven Hartley, and William Rudelius, *Marketing*, 9th Ed., (New York, NY: McGraw-Hill Irwin 2009), Chapter 18 and particularly p. 465; William M. Pride and O.C. Ferrell, *Marketing*, 14th Ed., (Boston, MA: Houghton Mifflin Company, 2008), p. 495.

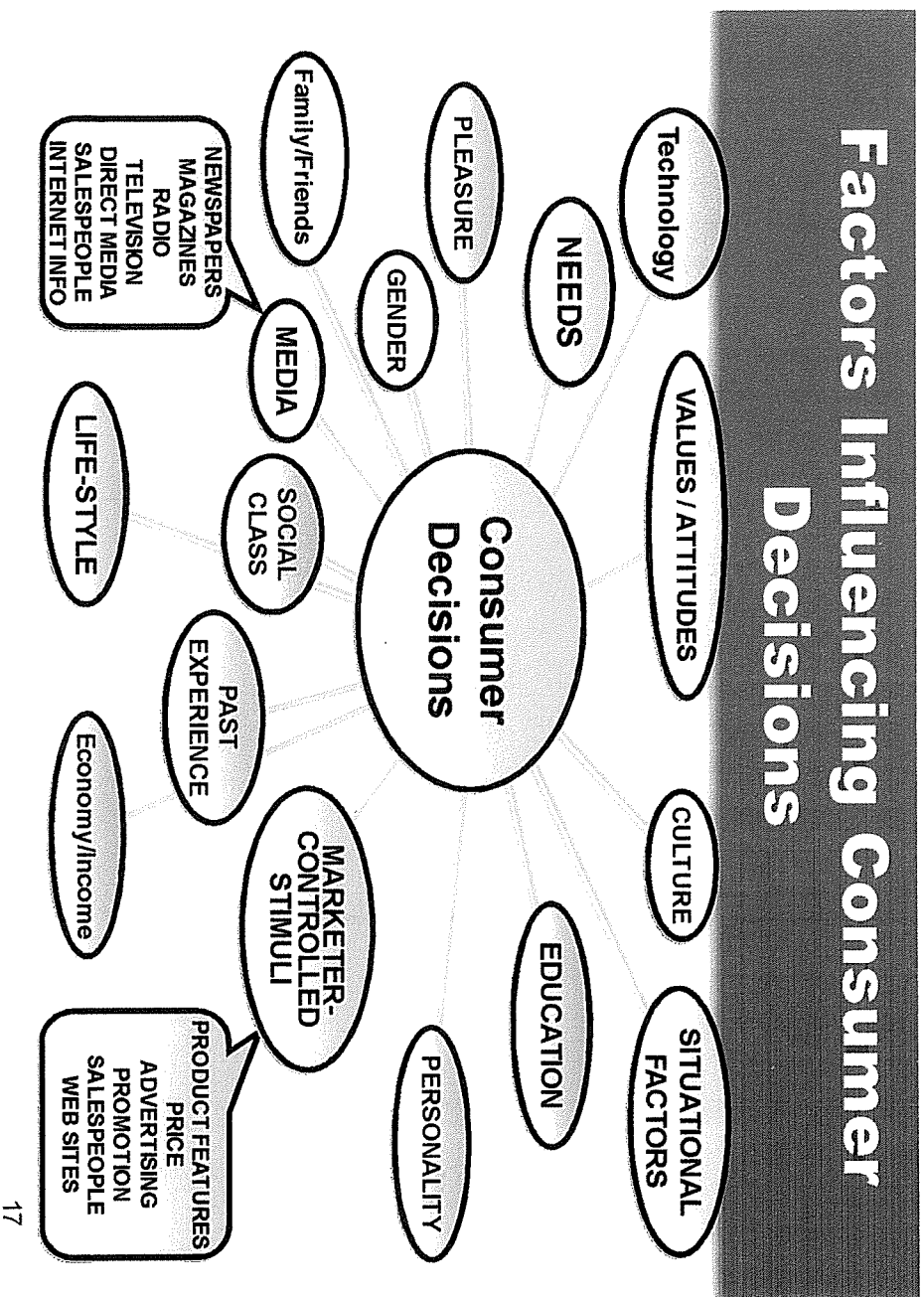


Figure 2: Factors Influencing Consumer Decisions

17

Endnotes

¹ Leading consumer behavior books highlight the individual nature of consumer information processing. See Michael R. Solomon, Consumer Behavior: Buying, Having and Being, (Upper Saddle Ridge, NJ: Pearson-Prentice Hall, 2007) particularly *Section 2: Consumers As Individuals*; J. Paul Peter and Jerry Olson, Consumer Behavior and Marketing Strategy, (New York, NY: Mc-Graw Hill Irwin Publishing), 8th Ed., 2008, Chapter 17.

² Kevin Lane Keller, "Brand Equity and Integrated Communication," in Integrated Communication, Esther Thorson and Jeri Moore, Editors, (Mahwah, NJ: Erlbaum Associates, 1996), p. 107.

³ In addition to the sources cited in endnote #1, also see Roger A. Kerin, Steven W. Hartley, and William Rudelius, Marketing, 9th Edition, (New York, NY: McGraw Hill/Irwin, 2009), p. 464-466.

⁴ Expert report of Kathleen Q. Abernathy, re General Motors OnStar Litigation, Master File No. 07-1867, January 5, 2010.

⁵ See as examples Richard J. Semenik, Promotion and Integrated Marketing Communications, (Cincinnati, OH: Thomson Learning, 2002), pgs. 16 and 179; Roger A. Kerin, Steven W. Hartley, and William Rudelius, Marketing, 9th Edition, (New York, NY: McGraw Hill/Irwin, 2009), p. 467.

⁶ This point is made specifically in Roger A. Kerin, Steven W. Hartley, and William Rudelius, Marketing, 9th Edition, (New York, NY: McGraw Hill/Irwin, 2009), p. 468.

⁷ William M. Pride and O.C. Ferrell, Marketing, 14th Ed., (Boston, MA: Houghton Mifflin Company, 2008), p. 549.

⁸ Peter, J. P. and J. Olson, Consumer Behavior and Marketing Strategy, (New York, NY: Mc-Graw Hill Irwin Publishing), 8th Ed., 2008, Chapter 17.

Appendix A

CURRICULUM VITAE

Richard J. Semenik

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EDUCATION/PREPARATION/TRAINING

		<u>Date</u>	<u>Concentration</u>
Ph.D.	Ohio State University Columbus, Ohio	1976	Marketing, Advertising
M.B.A.	Michigan State University East Lansing, Michigan	1971	
B.B.A.	University of Michigan Ann Arbor, Michigan	1970	Business

HONORS/AWARDS/PRIZES:

	<u>Date</u>
Montana Educator of the Year Montana Ambassadors Governor's Economic Service Society	2005
Distinguished Career Service Award David Eccles School of Business University of Utah	2000
National Board of Directors American Advertising Museum	1999-2003
Industry Relations Board American Academy of Advertising	2000
President of the Faculty David Eccles School of Business University of Utah	1997-1998
Joseph Rosenblatt Faculty Scholar David Eccles School of Business University of Utah	1994-1997
Royal L. Garff Faculty Scholar Graduate School of Business University of Utah	1989-1991, 1998-1999

HONORS/AWARDS/PRIZES (con't):

Outstanding Instructor, Runner-up College of Business University of Utah	1987-1988
Faculty Fellow Noxell Corporation Hunt Valley, Maryland	1988
Faculty Fellow MAC Consulting Group (Gemini Consulting) San Francisco, California	1987
Fellow, Albert Haring Symposium Indiana University	1975
Outstanding Instructor School of Business Administration Rider College	1973

WORK HISTORY/EXPERIENCE:

Professor of Marketing College of Business Montana State University Bozeman, Montana	2008-present
Dean, College of Business Montana State University Bozeman, Montana	2000-2008
Founder, Executive Director Center for Entrepreneurship for the New West Montana State University Bozeman, Montana	2002-2006
Assistant, Associate, Full Professor Eccles School of Business University of Utah Salt Lake City, Utah	1976-2000
Chair, Department of Marketing Eccles School of Business University of Utah Salt Lake City, Utah	1977-1981, 1985-1988, 1998-1999
Visiting Professor of International Marketing Ecole Supérieure de Commerce et de Management Tours, France	1998

WORK HISTORY/EXPERIENCE (con't):

Visiting Research Scholar Faculty of Economics Vrije Universiteit, Amsterdam, Netherlands	1995
Associate Dean for Research Eccles School of Business University of Utah Salt Lake City, Utah	1988-1991
Director, Ph.D. Program Department of Marketing Eccles School of Business University of Utah Salt Lake City, Utah	1986-1993
Instructor Department of Marketing Fisher School of Business Ohio State University Columbus, Ohio	1975-1976
Instructor Marketing Department Rider College Lawrenceville, New Jersey	1971-1973

TEACHING RESPONSIBILITIES/ASSIGNMENTS:**COURSES TAUGHT: University of Utah**

Introductory Marketing
 Introductory Advertising/IMC
 Consumer Behavior
 Marketing Management
 Executive Protocol
 Marketing Research
 History of Marketing Thought
 Marketing the Performing Arts/Entertainment

COURSES TAUGHT: Montana State University

Marketing Research
 Introduction to Marketing
 Promotion

2. GRADUATE STUDENTS SUPERVISED: University of Utah

<u>Role</u>	<u>Name</u>	<u>Level</u>	<u>Degree Date</u>
Member	Brian Ottum	Ph.d.	1993
Member	Raj Mehta	Ph.d.	1990
Member	John Schouten	Ph.d.	1989
Chair	Scott Roberts	Ph.d.	1988
Chair	Zhou Nan	Ph.d.	1987
Co-Chair	James McAlexander	Ph.d.	1987
Chair	Ken Bahn	Ph.d.	1984
Chair	Gary Bamossy	Ph.d.	1983
Member	Cliff Young	Ph.d.	1982

3. SIGNIFICANT COMMITTEE ASSIGNMENTS

	<u>Dates</u>
Montana State University:	
Director, Orser Executive Speaker Series	2008-present
Director, Executive Education Series	2007-present
University Planning and Budget Committee	2000-2008
Service and Outreach Subcommittee	2003
Performance Metrics Subcommittee	2003
Strategic Priorities Subcommittee	2002
College of Business International Committee	2000 to present
College of Business Strategic Initiatives Committee	2000 to 2004
Deans' Council	2000 to 2008
Athletics Budget Review Committee	2001
Chair, College of Nursing Dean Search Committee	2003-2004
Search Committee--Executive Director of	
University Planning and Analysis	2002
Enrollment Management Committee	2003-2004
University Integrated Marketing Communications	2003-2004
Marketing Advisory Committee	2004-2006
Five Year Vision Planning Committee	2004-2005
University of Utah:	
Deans' Advisory Committee	1979-1981, 1984-1991, 1997-1999
University Research Committee	1982-1988
Undergraduate Curriculum Committee	1980-1982
Marketing Department Recruiting Committee	1979, 1980, 1984, 1988
Executive MBA Curriculum Committee--Chair	1996-1999
National Advisory Board Marketing Committee	1997-1999
Promotion, Retention, Tenure Committee	1999

RESEARCH/SCHOLARSHIP/OTHER CREATIVE WORK:**1. PUBLICATIONS****A. Books**

Advertising and Integrated Brand Promotion, 5th Edition, Cincinnati, OH, South-Western College Publishing/Cengage Learning with Thomas C. O'Guinn and Chris Allen, 2009

Advertising and Integrated Brand Promotion, 4th Edition, Cincinnati, OH, South-Western College Publishing/Thomson Learning with Thomas C. O'Guinn and Chris Allen, 2006.

Advertising and Integrated Brand Promotion, 3rd Edition, Cincinnati, OH: South-Western College Publishing/Thomson Learning, with Thomas C. O'Guinn and Chris Allen, 2003

Promotion and Integrated Marketing Communications, Cincinnati, OH: South-Western College Publishing/Thomson Learning, February 2001.

Advertising, 2nd Edition, Cincinnati, OH: International Thomson Press/South-Western Publishing, with Thomas C. O'Guinn and Chris T. Allen, 2000.

Publicidad, Colonia Polanco, Mexico: International Thomson Editores, 1999

Advertising, Cincinnati, OH: International Thomson Press/South-Western Publishing, with Thomas C. O'Guinn, Chris T. Allen, 1998.

Principios De Marketing: Uma Perspectiva Global, Sao Paulo, Brazil, Makron Books do Editora Ltda., with Gary Bamossy and Lenke Peres, 1996.

Principles of Marketing: A Global Perspective, Canadian Edition, Scarborough, Ontario, Canada: Nelson Canada, with Gary Bamossy and Christopher R.W. Vaughan, 1995.

Principles of Marketing: A Global Perspective, 2nd Edition, Cincinnati, OH: International Thomson Publishing/South-Western Publishing, with Gary Bamossy, 1995.

Marketing: Core Concepts, Cincinnati, OH: South-Western Publishing, with Roy T. Shaw, 1995.

Advances in Nonprofit Marketing, Volume 4, Greenwich, CT: JAI Press, Inc., co-editor with Gary Bamossy, 1994.

Principles of Marketing: A Global Perspective, Cincinnati, OH: South-Western Publishing, with Gary Bamossy, 1993.

Marketing, 6th Edition, Cincinnati, OH: South-Western Publishing, with Roy T. Shaw, 1989.

Marketing, 5th Edition, Cincinnati, OH: South-Western Publishing, with Roy T. Shaw, 1985.

Marketing: An Integrated-Analytical Approach, Cincinnati, OH: South-Western Publishing, with Roy T. Shaw and Robert Williams, 1981.

B. Journal Publications

"The Relationship Between Direct Marketing and e-Commerce: A Managerial Perspective," March 2001, The Communicator, 97-100.

"Selling in CyberSpace: The Branding Imperative," BrandMoves, online publication of BBN Intercultural Agency accessed online at www.bbn-advertising.com, April 2000 to September 2000.

"Selling in CyberSpace: Why Branding Will Rule," The Communicator, March 2000, 77-94.

"Chinese Managers' Attitudes Toward Advertising: Before and After Tiananmen Square," International Journal of Advertising, 1994, Vol. 13, pp. 167-179, with Dong Tao.

"Measuring Preferences with Conjoint Analysis: Impact of a Different Number of Attributes in the Design," Journal of Business Research, Vol. 16, No. 5, May 1988, pp. 261-274, with William L. Moore.

"The Experiential Nature of Cultural Consumption and the Shaping of a 'New Aesthetic'," Artists and Cultural Consumers, Douglas V. Shaw, William S. Hendon, and C. Richard Waits, editors, (Akron, OH: Association for Cultural Economics), 1987, pp. 147-154, with Gary Bamossy.

"State of the Art of Arts Marketing," Advances in Nonprofit Marketing, Russell W. Belk, editor, (Greenwich, CN: JAI Press), Vol. 2, 1987, pp. 99-124.

"Chinese Managers Attitudes Toward the Use of Advertising," Journal of Advertising, Vol. 15, No. 4, 1986, pp. 56-62, with Zhou Nan and William Moore.

"Methodological Issues in Arts Marketing Research," Managerial Economics for the Arts, Virginia Lee Owen and William S. Hendon, editors, 1985, pp. 23-34, with Gary Bamossy.

"The FTC's 'Reasonable Basis' for Substantiation of Advertising: Expanded Standards and Implications," Journal of Advertising, Vol. 12, No. 1, 1983, pp. 4-11, with Debra L. Scammon.

"Is There a Generalized Conservation Ethic? A Comparison of the Determinants of Gasoline and Home Heating Energy Conservation," Journal of Economic Psychology, Vol. 3, 1983, pp. 317-331.

"Season Ticket Proneness Among Art Attenders," Journal of Cultural Economics, Vol. 6, No. 2, 1982, pp. 45-56.

"Corrective Advertising: Evolution of the Legal Theory and Application of the Remedy," Journal of Advertising, Vol. 11, No. 1, 1982, pp. 10-20, with Debra Scammon.

"Preferred Solutions to the Energy Crisis as a Function of Causal Attributions," Journal of Consumer Research, Vol. 8, No. 3, 1981, pp. 306-312, with Russell Belk and John Painter.

"Corrective Advertising: An Experimental Evaluation of Alternative Television Messages," Journal of Advertising, Vol. 9, No. 3, 1980, pp. 21-30.

C. Conference Proceedings (refereed)

A Competitive Intensity and Small Business Reliance on Marketing, New Venture Marketing, Vol. 3, International Council for Small Business, with Enno Masurel and Ingrid van Rijn, 1998.

"International Market Assessment: The 'Demand Side' Effects of Infrastructure," Proceedings, 1992 AMA Summer Educators' Conference, with Brian Ottum, 1992.

"Gender and the Mass-Mediated Material World," Gender and Consumer Behavior, Editor Janeen Arnold Costa, Salt Lake City, UT: Association for Consumer Research, 1991, with Thomas C. O'Guinn and L. J. Shrum, pgs. 367-377.

"Processes and Effects in the Construction of Normative Consumer Beliefs: The Role of Television," Advances in Consumer Research, Vol. 18, editors., Rebecca H. Holman and Michael R. Solomon, Provo, UT: Association for Consumer Research, 1991 with L. J. Shrum, Thomas O'Guinn and Ronald Faber, pgs. 755-763.

"Infrastructure and Marketing System Factors Related to China's Pursuit of Market Socialism," Proceedings of the 1989 AMA Winter Educator's Conference, eds., Terry Childers, Richard Bagozzi, and J. Paul Peter, Chicago: American Marketing Association.

"Affect Control Theory: A Proposal for the Resolution of the Role of Affect and Cognition in Consumer Evaluation and Choice," Scientific Method in Marketing, Paul F. Anderson and Michael J. Ryan, editors., Ft. Lauderdale, FL: American Marketing Association, 1984, pp. 205-209.

"Volunteerism Among Professional Males," Developments in Marketing Science, Jay D. Lindquist, editor, Vol. 3, 1984, pp. 370-374, with Maria Schaeffer.

"The Energy Conservation Ethic," Consumer Behavior and Energy Policy, Peter Ester, et. al. editors, 1984, with John Painter and Russell Belk.

"Cultural Materialism, The Role of Goods, and Societal Symbolism as Research in Marketing," Proceedings of the First North American Conference on the History of Marketing Research, Stanley C. Hollander and Ronald Savitt, editors, 1984, pp. 13-19.

"Hemispheric Lateralization, Affect, and Consumer Esthetics," Nonprofit Marketing: Conceptual and Empirical Research, F. Kelly Shuptrine and Peter H. Reingen, editors, Tempe, AZ: University of Arizona Bureau of Business and Economic Research, 1983, pp. 49-53.

"An Anthropological Perspective on Consumer Research Issues," Proceedings AMA Educator's Conference, Patrick E. Murphy, et. al., editors, Chicago: American Marketing Association, 1983, pp. 118-122, with Dennis Heskell.

"A Test of Inducements for Stimulating Consumer Participation in Laboratory Experiments," Developments in Marketing Science, Vinoy Kothari, editor, Vol. 5, 1982, pp. 379-383.

"A Study of Factors Influencing Energy Conservation Behavior," Advances in Consumer Research, Andrew Mitchell, editor, 1982, pp. 306-312, with John Painter and Russell Belk.

"Tangible and Intangible Motivators of Arts Attendance," The Changing Marketing Environment: New Theories and Applications, Ken Bernhardt, et. al., editors, Chicago: American Marketing Association, 1981, pp. 154-157, with Gary Bamossy.

"Co-Patronage Patterns in Arts Related Leisure Activities," Symbolic Consumer Behavior, Morris B. Holbrook and Elizabeth C. Hirschman, editors, Ann Arbor: Association for Consumer Research, 1981, pp. 95-100, with Russell Belk and Alan Andreasen.

"Correlates to Season Ticket Subscription Behavior," Advances in Consumer Research, Vol. 7, Jerry C. Olsen, editor, Ann Arbor: Association for Consumer Research, 1980, pp. 114-120, with Clifford Young.

"Market Segmentation in Arts Organizations," Proceedings: AMA Educators Conference, Neil Beckwith, et. al., editor, Chicago: American Marketing Association, 1979, pp. 474-478, with Clifford Young.

"An Exploratory Study of the Evolution of the Negative Image of Personal Selling," Advances in Consumer Research, Vol. 6, William L. Wilkie, editor, Ann Arbor: Association for Consumer Research, 1979, pp. 641-644, with John Painter.

"The Temporal Persistence of the Effects of Corrective Advertising," Advances in Consumer Research, Vol. 5, H. Keith Hunt, editor, Ann Arbor: Association for Consumer Research, 1978, pp. 343-351, with Alan Sawyer.

"Low Income vs. Non-Low Income Consumer Preference Data as Input to Socially Responsible and Economically Profitable Decision Making," Marketing: 1776-1976 and Beyond, Kenneth Bernhardt, editor, Chicago: American Marketing Association, 1976, pp. 204-208, with Robert A. Hansen.

D. Reprints/Invited Papers

Book Review, *Journal of Marketing*, October 2007 "Private Label Strategy: How to Meet the Store Brand Challenge, by Nirmalya Kumar and Jan-Benedict E. M. Steenkamp (Boston: Harvard Business School Press, 2007),

"Preferred Solutions to the Energy Crisis as a Function of Causal Attributions," with Russell Belk and John Painter, reprinted in Melanie Wallendorf and Gerald Zaltman, editors, Readings in Consumer Behavior: Individuals, Groups, and Organizations, 2nd Edition, New York: Wiley & Sons, 1984, pp. 306-312.

"Corrective Advertising: Evolution of the Legal Theory and Application of the Remedy," with Debra Scammon, abstract reprinted in Journal of Marketing, Vol. 47, No. 1, Winter 1983, pp. 135-136.

"Season Ticket Proneness Among Art Attenders," reprinted in William S. Hendon, editor, Economic Research in the Performing Arts, 1983, pp. 125-132.

4. PRESENTATIONS

<u>Date</u>	<u>Presentation</u>	<u>Sponsor</u>
May 2008	Advertising is Dead---- Long Live Advertising!	Oregon State University Emerging Issues Lecture Series
March 2008	Pleasing All the Faculty All the Time: The Allocation of Scarce Faculty Raise Funding	Western Decision Sciences Institute San Diego, CA
November 2005	Practicing What We Preach: Linking Performance and Rewards in Academia.	Western Academy of Management Annual Meeting Las Vegas, Nevada
October 2004	Staying Focused: The Bracken Center for Excellence in Business Education	Western Association of Collegiate Schools of Business Las Vegas, Nevada
January 2000	E-Commerce and the Global Branding Challenge	Finnish Association of Advertising Agencies Helsinki, Finland Keynote Address
September 1999	Humor and the History of Advertising	Chamber of Commerce Indianapolis, Indiana
May 1999	Client/Agency Message Planning	Institute of Advertising Practitioners Dublin, Ireland Presidential Luncheon Address
October 1998	The Role of Advertising in Emerging Markets	International Association of Advertising Agencies/European Association of Advertising Agencies Budapest Hungary Keynote Address

May 1997	Global Marketing Strategies	Anahuac University Mexico City, Mexico
February 1997	Competition and Interdependence In the Global Village	Huntsman Chemical Corporation CIBER Annual Meeting Salt Lake City, Utah
December 1996	Advertising Limitations and the EU	European Association of Advertising Agencies Lisbon, Portugal
November 1995	Customer Satisfaction and Competitive Advantage	ISIDA Palermo, Italy
November 1995	Role of Advertising in Demand Stimulation	Forum Europe Brussels, Belgium
October 1995	Integrated Marketing Communications for Small Businesses	Assoc.of Small Business Development Centers New Orleans, Louisiana
October 1994	Strategic and Tactical Marketing for Small Businesses	Assoc. of Small Business Development Centers Snowbird, Utah
October 1993	Gaining and Sustaining Competitive Advantage	Assoc. of Small Business Development Centers Lexington, Kentucky
July 1993	What It Means To Be "Market Oriented"	David Eccles School of Business Business At Breakfast Series Salt Lake City, Utah
June 1993	Marketing New Technologies	National Innovation Workshop National Small Business Development Assoc. Salt Lake City, Utah
April 1992	A "Marketing Orientation" for Small Businesses	National Small Business Development Assoc. Denver, Colorado
November 1990	Social Reality, Advertising and Television Usage	Decision Sciences Institute San Diego, California
October 1989	Strategic Issues in Service Marketing	National Big Brothers/Sisters Assoc. Park City, Utah
November 1988	Marketing in a Nonprofit Setting	Rocky Mountain Public Radio Assoc. Park City, Utah
May 1988	The Marketing Strategist's View of the Role of Advertising	Women in Communication, Inc. Salt Lake City, Utah
January 1987	Marketing the Fine Arts	Tucson Museum of Fine Art Tucson, Arizona

11

April 1986	Marketing Issues in China	University of Cincinnati Department of Marketing
August 1985	China's Open Door Policy	World Marketing Congress Sterling, Scotland
April 1985	Fundraising as a Basic Marketing Activity	Utah Museum of Fine Art Salt Lake City, Utah
February 1984	The Role of Affect and Cognition in Consumer Research	University of Utah Department of Psychology
April 1983	Affect Control Theory	University of Utah Department of Psychology
May 1983	Specialized Brain Function and Affective Response	University of Massachusetts Department of Marketing
January 1982	Marketing and the Arts	American College Theater Festival Salt Lake City, Utah
March 1981	The Image of Personal Selling	Southwestern Marketing Association New Orleans, Louisiana
April 1980	A Review of Basic Marketing Texts	Western Marketing Educator's Association San Jose, California
April 1979	Teaching Marketing to Arts Educators	Western Marketing Educator's Association San Jose, California
March 1979	The Application of Marketing Techniques to Arts Management	Western States Art Foundation Denver, Colorado
August 1977	Marketing Programs for Arts Organizations	Opera America Washington, D.C.
November 1976	Marketing Applied to the Arts	Snowbird Seminar on the Arts Snowbird, Utah

6. PROFESSIONAL SERVICE/PUBLIC SERVICE/CORPORATE DEVELOPMENT

A. PROFESSIONAL SOCIETIES

1991 to present	American Academy of Advertising
1975 to present	American Marketing Association
1976 to 2000	Association for Consumer Research
1980 to 1984	Association for Cultural Economics

B. PROFESSIONAL SERVICE

2008	Invited Reviewer, <i>Journal of Advertising</i> Special Issue on Regulation in Advertising
2006	Reviewer, U.S. Association for Small Business and Entrepreneurship
2005	Invited Reviewer, Special Issue on IMC, <i>Journal of Advertising</i>
2004	Reviewer and Session Chair U.S. Association for Small Business and Entrepreneurship
1980, 1983, 1985 1987, 1993- 1995, 1999, 2004	Reviewer, American Marketing Association Educators' Conference
1999	Reviewer, Marketing and Electronic Commerce Conference, NYU
1997-2000	Session Chair, American Academy of Advertising
1995 to present	Reviewer, American Academy of Advertising
1997 to 2000	Editorial Review Board, <i>Journal of Consumer and Marketing Research</i>
1980 to 2001	Reviewer, <i>Journal of Advertising</i>
1984 to 1995	Ad Hoc Reviewer, <i>Journal of Consumer Research</i>
1988 to 1994	Ad Hoc Reviewer, <i>Journal of Marketing</i>
1988 to 2001	Editorial Review Board, <i>Journal of Health Care Marketing</i>
1979, 1983, 1991 1993, 1996, 1998	Reviewer, Association for Consumer Research
1992	Consumer Behavior Track Chair American Marketing Association Winter Educator's Conference
1991, 1993, 1996	Reviewer Association for Consumer Research Gender and Consumption Conference
1987, 1992, 1999	Reviewer, Doctoral Dissertation Competition, Association for Consumer Research
1982 to 1988	Reviewer, <i>Advances in Nonprofit Marketing</i>
1984 to 1985	Reviewer, <i>Empirical Studies in the Arts</i>
1984 to 1985	Reviewer, <i>Academy of Marketing Science</i>
1985, 1993	Session Chair, Association for Consumer Research National Conference
1985	Discussant, Academy of Marketing Science National Conference

13

1984, 1985	Session Chair, Association for Cultural Economics International Conference
1981, 1982, 1984	Discussant/Session Chair American Marketing Association Educator's Conference
1980, 1981	Session Chair/Reviewer, American Marketing Association Services Conference
1979	Session Chair, Yale University Conference on Government Marketing

C. Corporate Development

2005 to present	Board of Directors S2 Corporation Bozeman, Montana
2004 to 2005	Board of Directors Scientific Materials Incorporated Bozeman, Montana (acquired by FLIR Corp. 2005)
2002 to present	Board of Advisors PrintingforLess.com Livingston, Montana
2002 to present	Board of Advisors InfoGears Bozeman, Montana
2002	Co-Founder Bridger Private Capital Network (Angel Investor Network) Bozeman, Montana
2002 to 2006	Founder and Executive Director Center for Entrepreneurship for the New West Bozeman, Montana
2001 to present	Board of Directors (ad hoc) Technology Venture Center/TechRanch Bozeman, Montana
1984	Founding Investor StatWare, Inc. (acquired 2000) Salt Lake City, Utah
1982	President of the Board ArtSpace, Inc. Salt Lake City, Utah
1981	Co-Founder Aurora Design Associates (privately placed 1988) Salt Lake City, Utah

Appendix B

Exhibit B—Expert Witnesses Services Provided by Richard J. Semenik, Ph.D.

Mystic Thompson vs. Bayer Corporation and Bayer HealthCare LLC—October 2008

Regina Little vs. Kia Motors—May 2008

My fee for expert witness analysis and services is billed at \$400 for research and review and \$500 for deposition and trial preparation and testimony.

Appendix C

Exhibit C

1. The Plaintiffs' Second Master Amended Complaint;
2. OnStar's terms and conditions effective 2002;
3. OnStar's terms and conditions effective 2003;
4. OnStar's terms and conditions effective 2004;
5. May 7, 2003 PowerPoint Subaru Analog to Digital Transition;
6. February 2005 PowerPoint OnStar Analog to Digital Transition Communications;
7. PowerPoint of Activation Rates/Subscriber Statistics;
8. SOA93 to 332, SOA331 to 1120
9. SOA053 to SOA065
10. SOA066 to 077
11. SOA078 to 083
12. SOA084 to 092
13. SOA15-51
14. VWMC03-VWMC005
15. SOA1121 to 1285
16. SUGE00174-175
17. SOA1898 to 1914
18. Depositions Transcripts and exhibits of :
 1. Jack Jacovelli
 2. Charles Allenson
 3. Robert Reischman
 4. Larnell Gill
 5. John Kuller
 6. David Busch
 7. Mark Vamos
 8. Janice Rhodes
 9. Walter Rochow
 10. Carey Stein
 11. Wanda Hoover

12. Robert Schatz
13. John Irving
14. Sandra Williams
15. Robert Golish
16. Cheryl Nicholas
17. Angela Imbierowicz
18. Bradley Reich
19. Irene Nary
20. Norman and Susan Nelson
21. Melvin and Betty Rubertt
22. Murle Kemp
23. Gorden Erdenberger
24. Jason Smith
25. Thomas Keery
26. Richard Lamping
27. Anthony DiSalle
28. James Sinclair
29. David DiMusto
31. Dan Appa

19. The Report of Commissioner Kathleen Q. Abernathy dated January 5, 2010